

Message Text

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AMEMBASSY NEW DELHI
CINCPAC

C O N F I D E N T I A L DACCA 2813

CINCPAC FOR POLAD

E.O. 11652: GDS
TAGS: PGOV, PINT, BG
SUBJ: CHALLENGE TO ZIA'S NOMINATION REJECTED; OSMANI ASKED TO
RECONSIDER HIS CONDITIONS FOR PARTICIPATION

1. THE NOMINATION PAPERS FOR NINE OF THE PRESIDENTIAL
CANDIDATES, INCLUDING PRESIDENT ZIA AND GENERAL OSMANI,
WERE CLEARED YESTERDAY (MAY 3) (REF A) ONLY AFTER A SCRUTINY
WHICH INCLUDED A LEGAL DEBATE RAISED BY OSMANI'S SUPPORTERS
OVER THE VALIDITY OF PRESIDENT ZIA'S NOMINATION. QUOTING
RELEVANT SECTIONS OF THE 1972 CONSTITUTION, THE ARMY ACT OF
1952 AND ARMY REGULATIONS (VOLUME ONE) OF 1975, OSMANI'S
SUPPORTERS ARGUED THAT ANY PERSON SERVING IN THE ARMED
FORCES WAS DISQUALIFIED TO CONTEST ELECTIONS OR TO
PARTICIPATE IN POLITICS. COUNTERING EACH ARGUMENT,
MOUDUD AHMED, A CONSTITUTIONAL LAWYER AS WELL AS ONE OF THE
"POLITICAL" MEMBERS OF ZIA'S COUNCIL OF ADVISORS, CONVINCED
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ELECTION SECRETARY, QAZI JALALUDDIN AHMED (ACTING AS
RETURNING OFFICER), THAT ZIA'S POSITION WAS VALID. ACCORDING
TO TODAY'S PRESS, THE CONVINCING LEGAL ARGUMENT WAS THAT
AMENDMENTS TO ARMY RULES 291, 292, AND 293 EXEMPTED OFFICERS
OF THE RANK OF FIELD MARSHAL OR THOSE HOLDING THE OFFICE
OF CHIEF MARTIAL LAW ADMINISTRATOR FROM THE PROHIBITION ON
POLITICAL PARTICIPATION. REGARDING THE TWO REJECTED NOMINATIONS,

NEITHER GOLAM MORSHED NOR HIS SUPPORTERS TURNED UP DURING THE SCRUTINY, THUS FORFEITING THE NOMINATION, AND OLIUL ISLAM CHOUDHURY COULD NOT PROVE HE WAS OVER 35 YEARS OF AGE, THE LEGAL MINIMUM.

2. MEANWHILE, IN ONE OF THE OPENING ROUNDS OF THE ELECTION CAMPAIGN, ENAYATULLAH KHAN, WHO IS ALSO A "POLITICAL" MEMBER OF THE COUNCIL OF ADVISORS, QUESTIONED OSMANI'S ABILITY AND ALSO ASKED HIM NOT TO USE HIS FRONT'S "SEVEN POINTS" (REF B) AS A "CONTRIVANCE" FOR NOT CONTESTING THE ELECTIONS. KHAN SUGGESTED THAT INSTEAD, OSMANI OUGHT TO USE HIS OBJECTIONS AS A POLITICAL PLATFORM IN THE ELECTION. BECAUSE OF THE SEVEN POINTS, KHAN QUESTIONED OSMANI'S SINCERITY IN FILING HIS NOMINATION AND ADDED "NOTWITHSTANDING THE QUALITIES THAT HE HAS TO HIS CREDIT, I AM CONSTRAINED TO SAY THAT GENERAL OSMANI HAS ALWAYS SLIPPED UP WHEN THE FINAL WHISTLE BLEW." KHAN SUGGESTED THAT OSMANI HAD BEEN FOUND WANTING AT THE TIME OF THE SURRENDER OF THE PAKISTAN ARMY IN 1971, BUT KHAN DID NOT EXPLAIN HIS REFERENCE.

3. COMMENT: THE NEXT FEW DAYS WILL NO DOUBT BE TENSE ONES FOR ZIA AS HE WAITS TO SEE WHETHER OSMANI WILL CONTEST OR NOT. IF HE DOES CONTEST, THE NATURE OF THE COMING CAMPAIGN FROM ZIA'S POINT OF VIEW ALREADY SEEMS TO BE TAKING SHAPE. ZIA WILL PROBABLY USE HIS ADVISORS TO DO
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THE HARD CAMPAIGNING, SUCH AS QUESTIONING OSMANI'S INTEGRITY AND ABILITY AND PERHAPS USING INNUENDO TO TARNISH HIS REPUTATION, WHILE ZIA HIMSELF POSES AS A STATESMAN WITH HIS USUAL SPEECHES CALLING FOR ECONOMIC DEVELOPMENT AND NATIONAL UNITY, AS HE DID YESTERDAY AT BANGOBHABAN TO A SELECT GROUP OF TRANSPORTATION AND COMMUNICATION WORKERS.

4. A LEGAL CHALLENGE IN THE COURTS TO ZIA'S NOMINATION REMAINS A POSSIBILITY. IT IS INTERESTING THAT, ACCORDING TO THE PRESS, IN HIS DEFENSE OF ZIA'S CANDIDATURE, MOUDUD DIDNOT USE, OR EVEN REFER TO, THE FOURTH AMENDMENT OF THE 1972 CONSTITUTION. SCHNEIDER

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